

**§ 127.32 Expenses of cartage, storage, and labor.**

The expenses of cartage, storage, and labor for merchandise entered for warehousing shall be paid in the following order:

(a) When such merchandise was warehoused in public stores, expenses of storage and labor shall be paid after expenses of sale (pro-rated when proceeds are insufficient to pay them fully) and any cartage charges shall be paid last.

(b) When such merchandise was warehoused in a bonded warehouse, expenses of storage, cartage, and labor shall be paid last (pro-rated when proceeds are insufficient to pay them fully).

**§ 127.33 Chargeable duties.**

The duties chargeable on any merchandise within the purview of this subpart shall be assessed on the appraised dutiable value at the rate of duty chargeable at the time the merchandise became subject to sale. Household and personal effects of the character provided for in Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), which belong to persons who have not arrived in this country before the effects become subject to sale, are dutiable at the rates in effect when the effects become subject to sale, even though such persons arrive and make entry for the effects before they are sold.

[T.D. 74-114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 89-1, 53 FR 51255, Dec. 21, 1988; T.D. 97-82, 62 FR 51770, Oct. 3, 1997]

**§ 127.34 Auctioneer's commissions.**

The duties of the auctioneer shall be confined to selling the merchandise and his charge for such service shall in no case exceed the commissions usual at the port. Such commissions shall be based on the amount of the successful bid.

**§ 127.35 Presentation of accounts.**

Accounts for the auctioneer's charges and all other expenses of sale which may be properly chargeable on the merchandise shall be presented to the port director for payment within 10

days from the date of sale. Such expenses shall be apportioned pro rata on the amounts received for different lots sold.

**§ 127.36 Claim for surplus proceeds of sale.**

(a) *Filing of claim.* Claims for the surplus proceeds of the sale of unclaimed or abandoned merchandise shall be filed with the port director at whose direction the merchandise was sold. The following shall be used in filing a claim:

(1) *Unclaimed merchandise.* Claims for surplus proceeds of the sale of unclaimed merchandise which has become abandoned and sold under section 491 of the Tariff Act of 1930, as amended (19 U.S.C. 1491), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photostatic or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading.

(2) *Involuntarily abandoned merchandise—*(i) *Warehouse goods deemed abandoned.* Claims for surplus proceeds of sale of warehouse goods deemed involuntarily abandoned sold under section 559 of the Tariff Act of 1930, as amended (19 U.S.C. 1559), shall be established by reference to the warehouse entry, or, if the right to withdraw the merchandise from warehouse has been transferred, by reference to the documents by which the transfer was made.

(ii) *Trade fair articles deemed abandoned.* Claims for surplus proceeds of sale of trade fair articles deemed involuntarily (mandatorily) abandoned under section 4 of the Trade Fair Act of 1959 (19 U.S.C. 1753(c)), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photostatic copy or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading. (See § 147.47 of this chapter.)

(b) *Payment of claim.* If a claim of the owner or consignee of unclaimed or abandoned merchandise for the surplus proceeds of sale is properly established as provided in this section, such proceeds of sale shall be paid to him pursuant to section 493 of the Tariff Act of 1930, as amended (19 U.S.C. 1493).

(c) *Doubtful claims.* Any doubtful claims for the proceeds of sale along

with all pertinent documents and information available to the port director shall be forwarded to the Commissioner of Customs for instructions or for referral to the General Accounting Office for direct settlement.

**§ 127.37 Insufficient proceeds.**

(a) *Warehouse merchandise deemed involuntarily abandoned.* If the proceeds of sale of warehouse merchandise deemed involuntarily abandoned are insufficient to pay the duties after payment of all charges having priority, the deficiency shall be collected under the bond for the importation and entry of merchandise on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter.

(b) *Unclaimed merchandise and trade fair articles involuntarily abandoned.* If the proceeds of sale of unclaimed merchandise or trade fair articles involuntarily abandoned are insufficient to pay the charges and duties, the consignee shall be liable for the deficiency unless the merchandise was shipped to him without his consent. If no entry for the merchandise has been filed, and no other attempt to control the merchandise has been made, the merchandise shall be regarded as shipped to the consignee without his consent and no effort shall be made to collect any deficiency of duties or charges from such consignee.

[T.D. 74–114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 84–213, 49 FR 41183, Oct. 19, 1984]

**Subpart E—Title to Unclaimed and Abandoned Merchandise Vesting in Government**

SOURCE: T.D. 02–65, 67 FR 68034, Nov. 8, 2002, unless otherwise noted.

**§ 127.41 Government title to unclaimed and abandoned merchandise.**

(a) *Vesting of title in Government.* At the end of the 6-month period noted in § 127.11 of this part, at which time merchandise having thus remained in Customs custody is considered as unclaimed and abandoned, the port director, with the concurrence of the Assistant Commissioner, Office of Field Operations, may, in lieu of sale of the mer-

chandise as provided in subpart C of this part, provide notice to all known interested parties under paragraph (b) of this section that the title to such merchandise will be considered as vesting in the United States, free and clear of any liens or encumbrances, as of the 30th day after the date of the notice unless, before the 30th day, the merchandise is entered or withdrawn for consumption and all duties, taxes, fees, transfer and storage charges, and any other expenses that may have accrued on the merchandise are paid.

(b) *Notice to known interested parties.* Notice that the title to unclaimed and abandoned merchandise will vest in the United States, as described in paragraph (a) of this section, will be sent to the following parties on Customs Form (CF) 5251, appropriately modified, or other similar Customs document as designated by the port director or an electronic equivalent as authorized by Customs:

- (1) Importer, if known;
- (2) Consignee, if name and address can be ascertained;
- (3) Shipper, or the shipper's representative or agent, if merchandise is consigned to order or the consignee cannot be ascertained; and
- (4) Any other known interested parties.

(c) *Appraisal of merchandise.* Before title to unclaimed and abandoned merchandise is vested in the United States, the merchandise will be appraised in accordance with section 402, Tariff Act of 1930, as amended (19 U.S.C. 1401a).

**§ 127.42 Disposition of merchandise owned by Government.**

(a) *Disposition.* If title to any unclaimed and abandoned merchandise vests in the United States under § 127.41, the merchandise may be retained by Customs for its official use, or in Customs discretion, the merchandise may be transferred to any other Federal, state or local agency, destroyed or disposed of otherwise.

(b) *Payment of charges and expenses.* All transfer and storage charges or expenses accruing on retained or transferred merchandise will be paid by the receiving agency. Such transfer and